

2. In February 1998, Mr. Williamson began experiencing symptoms in his left knee. He reported those symptoms to his supervisor.
3. On March 9, 1998, Mr. Williamson sought medical treatment. By that time, his knee had been popping for one or two weeks and it also had buckled on him while ascending some steps at home.
4. As Mr. Williamson continued to work, the symptoms in his left knee worsened. He noticed that working in mud and on uneven ground caused his knee to hurt worse. On March 31, 1999, he filed this claim to seek workers compensation benefits, including medical treatment.

CONCLUSIONS OF LAW

1. The preliminary hearing Order should be affirmed.
2. An injury is compensable even where the accident only serves to aggravate a preexisting condition.¹ The test is not whether the accident causes the condition but whether the accident aggravates or accelerates the condition.²
3. The Board affirms the Judge's conclusion that Mr. Williamson injured his knee while working for Central Locating Service and that the injury arose out of and in the course of his employment. The Board finds it is more probably true than not that Mr. Williamson sustained a series of accidents and mini-traumas to his knee while working on the uneven and sometimes muddy terrain while doing his job.
4. Respondent and its insurance carrier argue that walking is an activity of daily living and, therefore, the knee injury cannot be considered as having been caused by work. They cite K.S.A. 1998 Supp. 44-508(e), which provides:

"Personal injury" and "injury" mean any lesion or change in the physical structure of the body, causing damage or harm thereto, so that it gives way under the stress of the worker's usual labor. It is not essential that such lesion or change be of such character as to present external or visible signs of its existence. An injury shall not be deemed to have been directly caused by the employment where it is shown that the employee suffers disability as a result of the natural aging process or by the normal activities of day-to-day living.

¹ Odell v. Unified School District, 206 Kan. 752, 481 P.2d 974 (1971).

² Woodward v. Beech Aircraft Corp., 24 Kan. App. 2d 510, 949 P.2d 1149 (1997).

5. The Appeals Board disagrees with the respondent and its insurance carrier's analysis. The Board finds that the knee injury occurred as a result of working on uneven and sometimes muddy terrain. Also, walking on muddy and on uneven terrain is not a normal activity of daily living as that phrase is contemplated by the act.

6. Further, the Board concludes that K.S.A. 1998 Supp. 44-508(e) is a codification of Boeckmann³ where the Court, in denying benefits, said:

. . . there is no evidence here relating the origin of claimant's disability to trauma in the sense it was found to exist in Winkelman. No outside thrust of traumatic force assailed or beat upon the workman's physical structure as happened in Winkelman.

Because Mr. Williamson sustained trauma walking on the muddy and uneven terrain, this fact situation is entirely different from Boeckmann where the worker's arthritic condition progressively worsened regardless of the activity.

7. For purposes of preliminary hearing, Mr. Williamson has established that his work activities have resulted in trauma to his knee.

WHEREFORE, the Appeals Board affirms the April 27, 1999, preliminary hearing Order entered by Judge Clark.

IT IS SO ORDERED.

Dated this ____ day of June 1999.

BOARD MEMBER

c: Tom E. Hammond, Wichita, KS
Matthew Thiesing, Lenexa, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director

³ See Boeckmann v. Goodyear Tire & Rubber Co., 210 Kan. 733, 736; 504 P.2d 625 (1972).